



**DEFENSE LOGISTICS AGENCY**  
**HEADQUARTERS**  
**8725 JOHN J. KINGMAN ROAD**  
**FORT BELVOIR, VIRGINIA 22060-6221**

FEB 02 2018

Mr. Stephen Johnson  
MuckRock  
DEPT MR 44452  
411A Highland Avenue  
Somerville, MA 02144-2516

Dear Mr. Johnson,

This letter responds to your Freedom of Information Act (FOIA) request filed on October 17, 2017, for a copy of all available documents pertaining to reporting requirements agreed upon by Agility Public Warehousing Company, K.S.C.P ("PWC"), Agility DGS Logistics Services Co. K.S.C.(c) ("Agility DGS"), and the Defense Logistics Agency ("DLA") in conjunction with Case 1:09-cr-00490-TWT-AJB.

Four records were identified as being responsive to your request. Two records are released to you in full and two records are withheld in full pursuant to exemptions 5 U.S.C. § 552(b)(4), commercial or financial information, and 5 U.S.C. §552b(6), personal privacy. Please note that the Administrative Agreement is publicly available at FAPIIS.gov, but has been attached for your convenience. Please see the matrix below:

<b>Responsive Record(s)</b>	<b>Release Determination</b>
Administrative Agreement	Full Release
Agility Code of Business Ethics & Conduct	Full Release
Monitor's Report	Withheld - Exemption 4
Internal Policy	Withheld - Exemption 4

Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption also affords protection to those submitters who are required to furnish commercial or financial information to the government and could suffer competitive disadvantages resulting from the disclosure. Therefore, the Agility's Internal Procedures Policy and "Initial Report of the Independent Monitor" are withheld.

Exemption b(6) protects information about individuals when disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Therefore, Agility employee names are withheld.

You have the right to appeal this partial denial. An appeal must be made in writing to the General Counsel and reach the General Counsel's Office within 90 calendar days from the date of this letter, and no later than 5:00 pm Eastern Standard Time. The appeal should include your reasons for reconsideration and enclose a copy of this letter. An appeal may be submitted online via <https://foiaonline.regulations.gov/foia/action/public/request/publicPreCreate>, faxed to

703-767-0364, or mailed. Appeals are to be addressed to the FOIA and Privacy Office, Defense Logistics Agency, ATTN: DGA, Suite 1644, 8725 John J. Kingman Road, Fort Belvoir, Virginia 22060-6221.

This agency decision concludes the processing of your request(s) referred to above. As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services. Similarly, as part of the FOIA Improvement Act of 2016, DLA established a FOIA Public Liaison to offer mediation services.

Both OGIS and the DLA Public Liaison will assist in resolving disputes between FOIA requesters and DLA as a non-exclusive alternative to appeal. Using OGIS or the DLA FOIA Public Liaison does not affect your right to pursue appeal nor does it stay the appeal clock. You may contact OGIS or the DLA Public Liaison in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510  
8601 Adelphi Road  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Facsimile: 202-741-5769  
Toll-free: 1-877-684-6448

DLA FOIA Public Liaison  
Lewis Oleinick, CIPP/US/G  
Defense Logistics Agency  
Suite 1644, ATTN: DGA  
8725 John J. Kingman Rd.  
Fort Belvoir, VA 22060-6221  
703-767-6194 (w)  
[FOIA.Liaison@dla.mil](mailto:FOIA.Liaison@dla.mil)

No fees are due for this request. Should you have any questions or require further information, please contact Kathy Dixon, Deputy Chief FOIA Officer at 703-767-6183 or [kathy.dixon@dla.mil](mailto:kathy.dixon@dla.mil). Please reference our case number DLA-HQ-2018-000287, in any subsequent communication regarding this request.

Sincerely,



MATTHEW R. BEEBE  
Director, DLA Acquisition

Encl:  
a/s

## **ADMINISTRATIVE AGREEMENT**

This Administrative Agreement ("Agreement") is made among Agility Public Warehousing Company, K.S.C.P ("PWC"), Agility DGS Logistics Services Co. K.S.C.(c) ("Agility DGS"), and the Defense Logistics Agency ("DLA"). Collectively, all of the aforementioned entities are referred to as "the parties." As used herein, "Agility DGS" means Agility DGS and its subsidiaries.

### **PREAMBLE**

- A. PWC is a Kuwaiti shareholding company with its head office located in Kuwait City, Kuwait. PWC uses the trade name "Agility" in many of its operations. It provides logistics services both directly and through subsidiaries located in over 100 countries.
- B. Agility DGS, formerly known as PWC Logistics Services Co. K.S.C.(c), a Kuwaiti closed corporation, is a wholly owned subsidiary of PWC, which commenced operation in 2006. Any current or future U.S. Government contracts or subcontracts will be managed by Agility DGS, and any bids or proposals for new U.S. Government contracts or subcontracts will be made by Agility DGS.
- C. The DLA Troop Support ("DLA"), formerly known as Defense Supply Center Philadelphia, is a primary level field activity of DLA that manages subsistence and garrison feeding. Starting in 2002, DLA issued solicitations for the acquisition of foodstuffs and non-food items for various parts of the Middle East, including Iraq, Kuwait and Jordan. The offeror who is awarded such a contract becomes the "Prime Vendor" for that contract. DLA has awarded three Prime Vendor contracts to PWC since May 28, 2003. Under these contracts, DLA has paid PWC approximately \$8.6 Billion.
- D. On May 28, 2003, DLA awarded to PWC prime vendor contract SPO300-03-D-3061 to provide food for United States military personnel in Southwest Asia, including Kuwait and Iraq (hereinafter "PV1 contract").
- E. On February 17, 2005, DLA awarded PWC prime vendor contract SPM300-05-D-3119 which was also for food for United States military personnel in Southwest Asia (hereinafter "PV Bridge contract").
- F. On July 7, 2005, DLA awarded PWC prime vendor contract SPM300-05-D-3128 (hereinafter "PV2 contract"). This contract was also for food for United States military personnel in Southwest Asia. The three contracts PV1, PV Bridge, and PV2 are collectively referred to as the "Prime Vendor Contracts."
- G. In November 2009, a qui tam suit pending since 2005 in the U.S. District Court for the Northern District of Georgia was unsealed. The United States subsequently intervened in part of the qui tam suit. That suit alleges, generally, that prompt payment discounts claimed by PWC on certain overseas food purchases are not true prompt payment discounts but are part of a conspiracy to overcharge DLA and that PWC used higher prices for food charged by

consolidators acting as intermediaries between PWC and manufacturers/suppliers for certain food items.

H. Also in November 2009, PWC was indicted in the Northern District of Georgia on charges related to Prime Vendor Contract pricing. The case is docketed as case number 1:09-CR-0490. A superseding indictment was issued on February 9, 2010. The indictment charges PWC and its subsidiaries Agility DGS Holdings, Inc., and Agility DGS Logistics Services Company with six criminal counts. Counts One and Two allege conspiracy (18 U.S.C. § 371), Counts Three and Four allege Major Fraud Against the United States and Aiding and Abetting Major Fraud (18 U.S.C. §§ 1031, 2), and Counts Five and Six allege Wire Fraud and Aiding and Abetting Wire Fraud (18 U.S.C. §§ 1343, 2). Agility DGS Holdings, Inc. and Agility DGS Logistics Services Company subsequently were dismissed from the superseding indictment.

I. PWC has agreed to enter a misdemeanor plea to a one count Information, charging that PWC charged a supplier in the Prime Vendor Contracts, which utilized Interchange Group, Inc.'s ("Interchange") services, an amount equal to Interchange's charges plus an additional mark-up to PWC. (Interchange provided warehousing and consolidation services at the Virginia Inland Port in Front Royal, Virginia.) Contrary to the terms of the Prime Vendor Contracts, PWC included this charge as a component of the Delivered Price (as defined in the Prime Vendor Contracts) and sent an invoice to DLA reflecting an artificially inflated Delivered Price for a product. Thus, PWC knowingly and willfully took a profit of \$551 in connection with the services that Interchange performed on this product reflected on one invoice. This \$551 profit that PWC obtained was separate from the profit that PWC obtained through the Distribution Price that PWC charged for the sale of this product. Thus, PWC knowingly converted to its own use \$551 of government funds, in violation of Title 18, United State Code, Section 641.

J. DLA has determined under the authority of Federal Acquisition Regulation ("FAR") 9.406 that the terms and conditions of this Agreement provide adequate assurance that future dealings, if any, between the U.S. Government and PWC and its successors and operating subsidiaries, including, but not limited to Agility DGS, will be conducted with the high degree of honesty and integrity required of a U.S. Government contractor and suspension or debarment is not necessary at this time to protect the U.S. Government's business interests. The parties, therefore, agree to the following terms and conditions.

K. Furthermore, DLA has agreed as of the Effective Date of this Agreement to work as expeditiously as possible to remove PWC and all of its subsidiaries, affiliates, and related individuals from the list of Registrations with an Active Exclusion(s), as reflected on the General Services Administration's System for Award Management ("SAM") database. DLA will first remove from the list of Registrations with an Active Exclusion(s) PWC, its related individuals, and Agility DGS. DLA will then continue to remove from the list of Registrations with an Active Exclusion(s) the remaining subsidiaries and affiliates of PWC in the order set forth on the prioritized list provided to DLA by counsel for PWC on the Effective Date of this Agreement. DLA agrees to promptly update PWC or its representatives on the status of removal upon request, and DLA further agrees that all PWC affiliates, subsidiaries, and related individuals will be removed from the list of Registrations with an Active Exclusion(s) no later than sixty (60) days from the Effective Date of this Agreement.

## ARTICLES

1. The "Effective Date" of this Agreement is May 23, 2017. The Effective Date is contingent upon the completion of the PWC, DOJ and DLA Settlement Agreements. "Completion" means the following: (i) a signed plea agreement regarding the aforementioned Criminal case referred to in Paragraph H of this Agreement; (ii) a signed settlement agreement regarding the Qui Tam suit referred to in Paragraph G of this Agreement; and (iii) a signed settlement agreement between DLA and PWC settling all ASBCA claims. Upon completion of all three events listed in i, ii, and iii, above, this Administrative Agreement becomes fully executable. The term of this Administrative Agreement shall last for two (2) years from the Effective Date.
2. PWC and Agility DGS shall implement policies, procedures, and internal controls relating to the maintenance and retention of documents related to the performance of U.S. Government contracts and subcontracts which shall be sufficient to allow for audit of Agility DGS's performance of U.S. Government contracts or subcontracts by cognizant U.S. Government audit authorities, as permitted under applicable U.S. laws and regulations, including the FAR. As appropriate, PWC and Agility DGS shall develop and implement business systems for accounting, estimating, and purchasing that are based on the applicable DoD FAR Supplement ("DFARS") business system requirements, are intended to comply with FAR Part 31 requirements, and are auditable by cognizant U.S. Government audit authorities. Records relating to PWC's and Agility DGS's performance of U.S. Government contracts or subcontracts shall be maintained for at least four (4) years after final payment of any affected contract, subcontract, or other agreement.
3. PWC shall maintain an Ethics and Compliance Program. Management and operation of the PWC Ethics and Compliance Program shall be the responsibility of the Chief Executive Officer ("CEO") of PWC, or that CEO's designee. The Ethics and Compliance Program shall be maintained so as to ensure that PWC and Agility DGS and the officers and employees of PWC and Agility DGS maintain the business honesty and integrity required of a U.S. Government contractor and that PWC's and Agility DGS's performance of each U.S. Government contract and subcontract is in compliance with all applicable laws, regulations, and the terms of the contract and subcontract. The Ethics and Compliance Program shall as a minimum include the following components:
  - (a) PWC shall continue to maintain and improve, as appropriate, The Agility Code of Business Ethics and Conduct, as adopted by PWC and as set forth in Appendix A hereto (the "Code"). The Code will continue to include (i) a statement of PWC's commitment to comply with all applicable laws and regulations in the conduct of its business; (ii) guidelines for PWC employees to follow in their business dealings on behalf of any PWC company; (iii) a notice that PWC shall immediately discipline, up to and including dismissal, any employee, officer, or director of PWC whose conduct violates applicable laws, regulations, PWC's Code, or basic tenets of business honesty and integrity; (iv) a requirement that employees report through PWC's established reporting mechanisms any impropriety relating to U.S. Government contracting of which they have knowledge



whether committed by an employee of PWC, or of the U.S. Government, or any other person, and whether the impropriety relates to violations of law, regulation, contract, PWC's Code, basic tenets of business honesty and integrity, or any other requirement; and (v) a notice that employees may report improprieties anonymously.

(b) PWC will continue to perform, through SAI Global or any alternative provider of good repute whom it may appoint, its regular and periodic compliance training of employees which shall, on a risk-based manner, be designed to ensure that employees are aware of all applicable laws, regulations, and standards of business conduct that employees are expected to follow and the consequences both to the employee and to their employer that will ensue from any violation of such laws, regulations or standards of conduct. For those employees directly involved in the administration of U.S. Government contracts, PWC shall provide additional training on the requirements of the FAR and the DFARS, including appropriate training based upon the employee's position, regarding preparation and submission of proposals for U.S. Government contracts, contract formation and administration, and the maintenance of contract-related documentation.

(c) PWC shall continue to operate toll-free global alert lines in order to enable employees to report suspected misconduct and violations of the Code. Agility DGS and its subsidiaries that participate in U.S. Government contracts shall post in a prominent place accessible to each of its employees, a copy of the DoD Hotline Poster (which includes the phone number to report fraud, waste, abuse or security violations to the DoD Office of Inspector General) and a notice publicizing the PWC Ethics Hotline number and detailing the company's commitment to comply with all applicable laws and regulations in the conduct of its business. PWC shall continue to publish the details of all toll-free numbers in its Code, as well as on PWC's corporate intranet site. Furthermore, PWC shall maintain its current policy of permitting employees to report violations anonymously and of prohibiting any retaliation against any employee as a result of his or her good faith reporting of an actual or suspected breach of the Code.

(d) Written materials and training related to the Ethics and Compliance Program shall be provided to employees of PWC and Agility DGS in English, Arabic or such other such language necessary to ensure that the relevant employees understand all elements of any written or oral presentation. New employees of Agility DGS and its subsidiaries shall receive these material and training within 30 days of their employment.

4. PWC agrees that all bids or proposals for all new U.S. Government prime contract work will be made by Agility DGS or one of its subsidiaries. Within thirty (30) calendar days after the Effective Date of this Agreement, Agility DGS shall select an Independent Monitor ("Monitor") under this Agreement. Agility DGS shall submit the proposed Monitor's name, resume, and contact information to DLA for DLA's approval. DLA shall inform Agility within fifteen (15) calendar days whether it approves Agility DGS's proposed Monitor. Once DLA has approved the selection by Agility DGS of the Monitor, if Agility DGS wishes to replace this selected Monitor, Agility DGS must gain the approval of DLA before contracting with the subsequent Monitor. The Monitor shall (i) evaluate the effectiveness of Agility DGS's Ethics and

Compliance Program; (ii) assess the ethical culture of Agility DGS as it relates to Agility DGS's Government contracting activities; (iii) review Agility DGS's policies, procedures, training and compliance as it relates to compliance with the provisions of the FAR and the DFARS; and (iv) report to DLA on Agility DGS's compliance with the terms of this Agreement no later than the end of the third month after the Effective Date of this Agreement.

(a) For a term ending two years after the Effective Date of this Agreement, the Monitor shall report quarterly to DLA regarding measures taken by Agility DGS to comply with this Agreement. The reports shall be provided directly to the Special Assistant for Contracting Integrity, with a copy to Agility DGS, and include: (i) summaries of actions taken by the Monitor and recommendations provided by the Monitor to Agility DGS regarding Agility DGS's Ethics and Compliance Program or this Agreement; (ii) indications of any problems or weaknesses identified in the Program, the corrective action(s) proposed or undertaken and the status of any such corrective action(s) and (iii) any recommended updates or enhancements to the Code to promote industry best practices relating to compliance and ethics programs.

(b) Agility DGS shall provide responses to any problems or weaknesses identified in prior Monitor reports to which it has not yet responded, as well as a plan for addressing the recommendations offered by the Monitor or an explanation why action is not being taken in response to a Monitor recommendation.

(c) The costs for any Monitor under this Agreement shall be treated as unallowable for Government contracting purposes and shall not be charged either directly or indirectly to any Government contract. Agility DGS agrees to account separately for such costs.

5. Agility DGS shall agree to designate Agility DGS Holdings, Inc. to accept any and all civil and criminal service of process in matters related to United States Government contracts. Agility DGS agrees that the designated agent will accept service of process in the United States, and that delivery of the summons and complaint by hand delivery or certified mail to the designated agent at the following address located in the United States: 1725 Duke Street #450, Alexandria, VA 22314, fulfills the United States Government's service of process requirements under the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure. Agility DGS agrees that service of process on this designated agent will be effective and legally binding service for Agility DGS only. If Agility DGS changes its designated agent, or the delivery address where the designated agent can receive service, it will notify DLA within seven (7) days.

The designated agent described in this Article 5 shall not have authority to accept service of process on PWC or any other subsidiary or affiliate of PWC, other than Agility DGS, and any such attempted service of process on PWC or any of its subsidiaries or affiliates other than Agility DGS shall not be effective.

6. The CEO of PWC on the Effective Date is Tarek Sultan, and the CEO of Agility DGS is Daniel Mongeon. PWC and Agility DGS agree to notify DLA within seven (7) days, if either Mr. Sultan or Mr. Mongeon leaves their current positions and to provide the name(s) of their successor(s) to DLA upon appointment.

7. PWC represents to DLA that, to the best of PWC's knowledge, PWC is not now under criminal or civil investigation by any U.S. Government entity.

8. Agility DGS shall not knowingly employ, with or without pay, an individual who will perform work in connection with a U.S. Government contract or subcontract, who is listed by a Federal Agency as debarred, suspended, or otherwise ineligible for Federal programs. Agility DGS shall make reasonable inquiry into the status of any potential employee or consultant who will perform work in connection with a U.S. Government contract or subcontract. The salary of any officer, employee, or consultant removed from U.S. Government contracting in accordance with this Article 8 shall be treated as unallowable for U.S. Government contracting purposes and shall not be charged either directly or indirectly to any U.S. Government contract. PWC and Agility DGS agree to account separately for such costs.

9. Within sixty (60) days following the Effective Date of this Agreement, Agility DGS shall adopt a written internal operating policy that, in connection with any U.S. Government contract or subcontract, Agility DGS shall not knowingly form a contract with, purchase from, or enter into any business relationship with any individual or business entity that is listed by a Federal Agency as debarred, suspended, or proposed for debarment. A copy of the policy shall be provided to DLA. If Agility DGS concludes that, in connection with any U.S. Government contract or subcontract, there is a compelling reason to enter into any business relationship with any individual or business entity that is listed by a Federal Agency as debarred, suspended, or proposed for debarment, Agility DGS shall provide notice to the cognizant Contracting Officer and to DLA, prior to entering such a business relationship, along with the information required by the clause at FAR 52.209-6, "Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment."

10. PWC shall not seek reimbursement from the U.S. Government, either directly or indirectly, for legal or related costs expended or to be expended arising from, related to, or in connection with, the misdemeanor guilty plea referenced in the Preamble, DLA's independent administrative review of the present responsibility of PWC and its subsidiaries, affiliates, and related individuals, the negotiation and preparation of this Agreement, or the performance or administration of this Agreement. PWC shall treat these costs as unallowable costs for U.S. Government contract accounting purposes. Included in these unallowable costs are any legal or related costs expended on behalf of any PWC employee for the matters identified in this Article 10. Past, present, and future costs of maintaining, operating, and improving PWC's or Agility DGS's internal controls and Ethics and Compliance Program are allowable costs for purposes of this Agreement.

11. The parties agree to waive all claims, demands, or requests for monies of any kind or of whatever nature that the parties may have or may develop in the future that relate solely to this Agreement.

12. PWC hereby releases the United States, its instrumentalities, agents, and employees in their official and personal capacities, of any and all liability or claims to PWC arising out of the discussions leading to this Agreement. DLA hereby releases PWC and all of its related



subsidiaries and affiliates, and employees in their official and personal capacities, of any and all liability or claims to DLA arising out of the discussions leading to this Agreement.

13. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

14. PWC's and Agility DGS's compliance with the terms and conditions of this Agreement shall constitute an element of PWC's and Agility DGS's present responsibility for U.S. Government contracting.

15. PWC represents that all written materials and other information supplied to DLA by its authorized representatives during the course of discussions with DLA preceding this Agreement and before the Effective Date of this Agreement are true and accurate, to the best information and belief of the PWC signatories to this Agreement. PWC understands that this Agreement is executed on behalf of DLA in reliance upon the truth and accuracy of all such representations.

16. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether oral or written, relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

17. The provisions of this Agreement in no way alter or diminish the rights and responsibilities of the United States to carry out its lawful functions in any proper manner.

18. Tarek Sultan, as CEO of PWC is fully authorized to execute this Agreement and represents that he has authority to bind PWC. Daniel Mongeon, as CEO of Agility DGS is fully authorized to execute this Agreement and represents that he has authority to bind Agility DGS.

19. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect other provisions of this Agreement. However, upon entering into this Administrative Agreement, all the parties agree that they contemplate a full resolving and finality to the DOJ and DLA ASBCA matters, which are referenced herein, and are to be resolved in the manner set forth in Article 1. The exception to the first sentence in this Article 19 is that if final court action does not occur that would finalize the settlements referenced in Article 1, thereby ending the litigation between DOJ, DLA and PWC, or if for any reason the settlement agreements between DOJ, DLA and PWC referenced in Article 1 are revoked by any party, this Administrative Agreement is void in its entirety.

20. Any notices or information required hereunder shall be in writing and delivered or mailed as follows:

If to PWC or Agility DGS, to:

Attention: Group General Counsel  
c/o Agility Public Warehousing Company KSCP

P.O. Box 25418  
Safat 13115  
Kuwait

with electronic copy and additional paper copy delivered to:

Richard Marmaro  
Skadden, Arps, Slate, Meagher & Flom LLP  
300 South Grand Avenue  
Suite 3400  
Los Angeles, CA 90071  
[Richard.marmaro@skadden.com](mailto:Richard.marmaro@skadden.com)

Kristin N. Tahler  
Quinn Emanuel Urquhart & Sullivan LLP  
865 South Figueroa Street  
Los Angeles, CA 90017  
[kristintahler@quinnemanuel.com](mailto:kristintahler@quinnemanuel.com)

If to DLA, to: James M. Coyne  
General Counsel and Special Assistant for Contracting Integrity  
Defense Logistics Agency (DG)  
8725 John J. Kingman Road, Suite 1644  
Fort Belvoir, VA 22060-6221

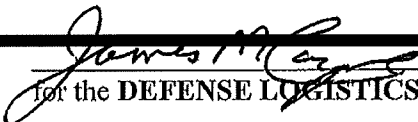
with electronic copy and additional paper copy delivered to:

B. Patrick Costello  
Chief of Business Integrity and Procurement Fraud  
Defense Logistics Agency (DG)  
8725 John J. Kingman Road, Suite 1644  
Fort Belvoir, VA 22060-6221  
[Patrick.Costello@dla.mil](mailto:Patrick.Costello@dla.mil)

or such other address as any party shall have designated by notice in writing to the other party.

21. This Agreement may be amended or modified only by a written document signed by both parties.

MA/23, 2017  
Date

  
for the DEFENSE LOGISTICS AGENCY

Date

22 May 2017

Date

for AGILITY PUBLIC WAREHOUSING  
COMPANY K.S.C.P.

*Daniel Ellington*  
for AGILITY DCS LOGISTICS SERVICES  
CO. K.S.C.(C)

May 23, 2017

Date

  
for AGILITY PUBLIC WAREHOUSING  
COMPANY K.S.C.P.

Date

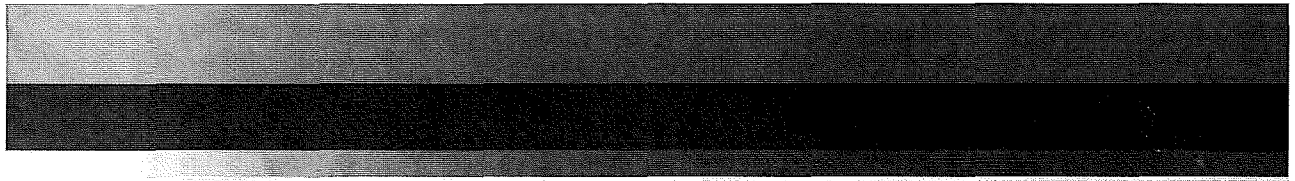
for AGILITY DGS LOGISTICS SERVICES  
CO. K.S.C.(C)



## Code of Business Ethics & Conduct

### Logistics with Integrity







## FROM THE CEO AND VICE CHAIRMAN



Dear Colleagues,

All of us at Agility have a professional and moral obligation to do business honestly, ethically and lawfully.

By doing business with integrity, we safeguard our reputation and strengthen the bond of trust that we have worked so hard to develop with customers, employees, suppliers, communities and shareholders.

This Code of Business Ethics and Conduct provides ethical and legal guidance to help you understand and meet your obligations as an Agility employee.

The high standards set in this Code apply equally to all Agility employees in every country in which we operate. We have an uncompromising commitment to integrity, fairness, and accountability across our global network.

This Code has my full endorsement, as well as that of the Agility Board of Directors and senior management. Please familiarize yourself with the Code in its entirety and ensure that you fully comply with it.

Thank you for living our values and our culture.

Best regards,

**TAREK SULTAN**

CEO and Vice Chairman

## *Integrity*

*Building trust with customers, communities, suppliers and one another by doing what is right, working safely, keeping our promises, being a good citizen, complying with regulations and laws, and honoring rules of engagement.*

## *Personal Ownership*

*Taking personal responsibility for the outcome of our actions by acting safely and anticipating needs, being resourceful and following through until the job is done.*

# *Our Values*

## *Teamwork*

*Working across organization and cultural boundaries to achieve extraordinary performance and deliver personal service to customers.*

## *Excellence*

*Building a culture based on excellence in thought and in execution to better serve customers. Demonstrate excellence in safety to protect our staff and the communities we serve.*



[agility.com](http://agility.com)

## HOW TO RAISE A CONCERN?

### Contacting the Agility Alert Line

If you have a concern that you would like to discuss, you can choose any of the following ways to get in touch with the Agility Ethics Department

### Call Us Toll-Free Worldwide

If you are located in Kuwait, please dial 1 809-222 (Extension 4200) to reach the Agility Alert Line.

If you are located in any other country, please refer to the below link to either obtain the appropriate contact information that applies to your region or country or to file a case online:

<https://secure.ethicspoint.com/domain/media/en/gui/23433/phone.html>

### Send Us an E-mail

If e-mail is a convenient means of communication for you, please contact us at: [ethics@agility.com](mailto:ethics@agility.com)



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## OUR COMMITMENT TO DOING BUSINESS ETHICALLY

### I. Our Corporate Policy and Our Code of Business Ethics and Conduct

#### A. Our Corporate Policy

The excellent reputation that Agility enjoys today has been earned over a long period of time. It reflects our commitment to complying with all applicable laws and regulations. It also reflects the high standards of business conduct and ethics used by the Company and our personnel in dealing with our customers, suppliers, vendors, governments, local communities, the public, and fellow personnel.

In order to maintain this tradition of excellence, all Agility personnel must continue to adhere to high ethical standards and behave lawfully when engaging in business conduct. This is a fundamental obligation of each Agility employee and is consistent with each employee's personal responsibility for helping to preserve and guard the Company's assets and reputation in the business community.

The international and sophisticated nature of the Company's business makes it particularly crucial that the conduct of all personnel be above reproach. Lawful and ethical business practice is an essential element of the Company's overall business philosophy and must be followed in all business relationships and dealings.

#### B. Our Code of Business Ethics and Conduct

As part of the Agility tradition and commitment to ethical business conduct, we have prepared this Code of Business Ethics and Conduct (the "Code").

#### i) Who Should Follow the Code?

The Code applies to ALL employees within the Agility enterprise as well as Agility's management board, directors and board members. All personnel of Agility have an obligation to familiarize themselves with this Code and all of the applicable laws and specific Company policies and practices related to their positions, and the country or countries in which they operate.

The Code is also intended to be incorporated into the standard terms and conditions for contracts with business partners including consultants, agents, independent contractors, subcontractors, vendors and suppliers. Each such contract should expressly provide for termination in the event any business partner violates either the Code or any other law or regulation.

#### EXAMPLE 1

Does the Company really expect personnel to adhere to the Code when to do so may mean losing business or reducing profitability?

Yes. Agility is genuinely committed to complying with all applicable laws and regulations and to increasing its business, over time, through its reputation for high quality goods and services. Conduct that violates the Code, apart from creating the possibility of both criminal and/or civil liability for both the Company and any involved personnel, is contrary to this overall objective and thus contrary to the Company's mission and long-term profitability.



ii) Is the Code Comprehensive?

The Code does not address every conceivable kind of business practice and behavior. The Code is intended to communicate clearly what is, at a minimum, expected of Agility personnel. To ensure adherence to the Code and all applicable laws and regulations, the Company has also established a comprehensive corporate compliance program that includes, but is not limited to the Code, a training program and a number of internal policies.

iii) When in doubt, ASK BEFORE ACTING.

Questions concerning ethical or legal conduct will inevitably arise in the normal course of business. It is the responsibility of each employee to contact his/her supervisor and/or the Compliance Officer and/or the Legal Counsel before taking any action that may have ethical or legal consequences for the Company.

This Code is intended to serve as a general guideline for the conduct of personnel. It is not intended to supersede or to replace specific corporate policies and/or divisional policies or work rules already in effect, with which personnel are expected to be familiar. The Code outlines the most fundamental obligations of Agility's personnel. In the unlikely event that the Code conflicts with any other Agility policy, practice or work rule, the Code takes precedence.

Moreover, this Code does not, nor is it intended to, confer any rights or benefits or constitute an employment contract, an assurance of continued employment, or employment other than at-will. Agility retains the right at its sole discretion to change any policy, procedure,



term or working condition at any time and in any manner, to the extent permitted by law.

iv) How is the Code Enforced ?

Any personnel found to have violated any provision of this Code will be subject to disciplinary actions, including termination of employment.

Supervisors shall ensure that this Code is enforced consistently through appropriate disciplinary measures, including termination of employment, and shall promptly report any violations or suspected violations to the Compliance Officer or the Legal Counsel.

Violations include not only a failure to comply with applicable laws and regulations, but also a failure by responsible management to detect, report, and/or correct any offense.

Code violations that involve violations of applicable laws and regulations may also be referred for criminal prosecution and may result in the institution of civil actions to reimburse Agility for any losses or damages resulting therefrom.

## OUR COMMITMENT TO EMPLOYEES

### v) How do you Report Violations ?

Any Agility personnel member who becomes aware of any issue or practice that involves a potential violation of an applicable law or of any provision of this Code has an affirmative responsibility to report the matter immediately to his/her supervisor or the Compliance Officer or the Legal Counsel.

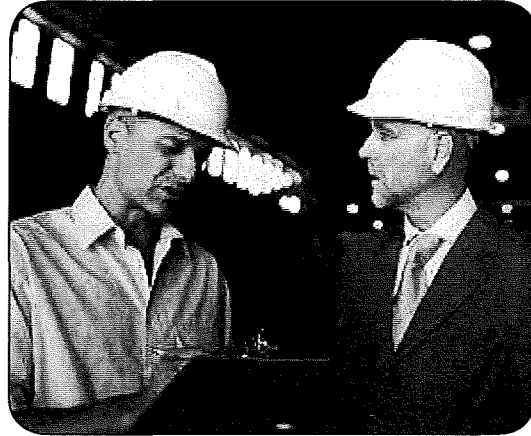
While we are confident that supervisors will handle the information in a confidential and professional manner, we realize that there are some circumstances in which employees may not be able to approach their immediate supervisor directly. In such cases employees may report the issue confidentially and anonymously by using the Agility Alert Line.

### vi) Protection and Responsibilities of Personnel who Report Violations

It is a violation of this Code for any personnel member to retaliate in any way against any person for reporting in good faith any suspected violation.

All personnel shall cooperate fully with the Compliance Officer, any representative of the Office of General Counsel, and any other representatives of Agility who are conducting any investigation, audit, inquiry or other review on behalf of the company.

Needless to say, personnel have a responsibility to provide complete and truthful answers to any questions that may be posed to them by Agility representatives in the course of their review, or the investigation of any alleged Code violation.



#### EXAMPLE 2

Can I get in trouble for reporting apparent violations to others higher up the line?

Agility encourages personnel to ask questions about ethical or legal issues and requires its personnel to report actual or suspected violations. Reasonable steps will be taken to protect anonymity and confidentiality if requested by the personnel member. Retaliation of any kind against a personnel member as a result of his or her good faith reporting of an actual or suspected Code or law violation is strictly prohibited. Abuse of reporting procedures for harassment or other improper purpose is itself a violation of the Code.

## II. Employment Practices

### A. Discrimination

Generally, applicable laws in the jurisdictions in which Agility operates prohibit discrimination in any employment decision. Thus, they prohibit discrimination in recruiting, inter-

viewing, selection, hiring, promotion, training, transfer, supervision, termination, layoff, compensation, benefits, and education opportunities.

This policy applies to all personnel actions and to participation in Company administered activities. The Company will make reasonable job-related accommodations for any qualified personnel member with a disability when notified by the personnel member that an accommodation is needed.

In interacting with a prospective personnel member, Agility personnel are generally prohibited from asking questions that may identify an employment applicant as a member of a particular race, color, religion, national origin, sexual preference, or disability group. Some examples of what personnel are prohibited from asking are:

- 1) Race, creed, religion, color, national origin, ancestry, age, or marital status;
- 2) Applicant's birthplace or the birth place of his parents, since those facts may identify national origin or ancestry;
- 3) Photographs, since they may identify race, color, or national origin;
- 4) Other physical characteristics that may identify a person as a member of a particular race, color, or national origin (e.g., color of eyes or hair);
- 5) Private organizational affiliations or political affiliations, clubs, social fraternities, societies, lodges or other organizations (excluding professional, trade or service organizations) since they may identify religion or creed;
- 6) An applicant's citizenship, except to the extent necessary to determine whether the



applicant's status permits him/her to work in the relevant country of employment;

- 7) Questions regarding an applicant's military service, other than questions regarding his/her work experience while in the military (if applicable); or
- 8) Whether an applicant has an arrest record, though you may ask whether an applicant has ever been convicted of a crime.

It is important to remember that the legal restrictions on what may be asked extend to verbal questioning during an interview. The point is, do not ask for any information for which you are not legally permitted to ask.

It is important to be aware not only of what applicable laws prohibit, but also of what they permit. Agility may, for example:

- 1) Select only qualified applicants for a job regardless of race, creed, color, etc. We must, however, be able to document the reasons for our decision;
- 2) Differentiate in pay and promotions on the basis of merit;
- 3) Pay different amounts based on seniority; or
- 4) Pay different amounts for jobs that are different.

## OUR COMMITMENT TO EMPLOYEES

The point is that differential treatment is allowed, but not on the basis of any of the prohibited factors such as race, color, religion, sex, national origin, age, etc.

### B. Harassment

Agility is committed to providing personnel with a workplace that is free from harassment based upon race, color, religion, sex, age, national origin, physical or mental disability, sexual orientation, marital status, or any other factor prohibited by law. Harassment includes, without limitation, verbal harassment (derogatory statements, slurs, pithets), physical harassment (assault, physical interference), visual harassment (cartoons, drawings, postings, emails), and mental harassment (innuendo).

Sexual harassment in any form is strictly prohibited. Sexual harassment includes unwelcome sexual flirtations, advances or propositions; verbal abuse of a sexual nature; subtle pressure or requests for sexual activities; unnecessary touching of an individual; graphic or verbal comments about an individual's body; sexually degrading words to describe an individual; a display in the workplace of sexually suggestive objects or pictures; sexually explicit or offensive jokes; or physical assault.

Similarly, racial and other forms of harassment, including racially derogatory language or conduct, create a hostile or offensive workplace and will not be tolerated.

In addition to subjecting the Company to potential liability, personnel who engage in sexual harassment or any other type of discrimination or harassment, and others who condone or permit it, may also be subjecting themselves to personal liability.

### EXAMPLE 3

Can I comment on a co-worker's appearance?

Innocent comments regarding an individual's appearance are not, in and of themselves, inappropriate. For example, it is not improper to tell a personnel member that a particular dress or suit looks nice. However, the manner in which comments are made, or their content, if sexually suggestive or otherwise offensive, can run afoul of the law.

### EXAMPLE 4

A co-worker's birthday is coming up and several of us want to surprise her at work by hiring a birthday greeting service that uses male models to convey a "suggestive" birthday greeting. Can we do that?

Such a greeting is inappropriate. Agility is committed to providing personnel with a workplace free of sexual, racial or other harassment. While your friend may or may not appreciate your gesture, such a display may be offensive to others and is obviously not in keeping with the Company's goal of assuring a work environment that is neither hostile nor offensive to any personnel member.

Apart from being unlawful, harassment and discrimination are extremely disruptive and contrary to Agility's mission. The Company will take action to see that harassment and discrimination do not occur. Violations of this policy will result in disciplinary action, including termination of employment where appropriate.

If you believe harassment has occurred, or if you have questions regarding these laws, you should consult your supervisor or the Compliance Officer or the Legal counsel, or contact the Agility Alert Line. All reports will be investigated, and appropriate corrective action will be taken.

There will be no retaliation or other adverse action taken against you for the exercise of your obligation to report occurrences of harassment. Complaints will be handled confidentially, except as necessary for investigation and resolution. Personnel can make reports anonymously.

#### EXAMPLE 5

I received, via the Internet, a series of jokes that have a sexual orientation. Can I share these jokes with fellow personnel via e-mail?

No. Apart from violating the Company's internal policies regarding personal use of Company e-mail, transmittal of the joke similarly could serve as a basis for an allegation of harassment, depending upon the content of the material. Jokes that are of a sexual orientation or that make fun of an individual or group of individuals based on race, national origin, religion, or other protected categories can be considered a basis for harassment. Personnel and supervisors must be sensitive to the fact that what may be humorous to one personnel member may well be offensive to another.

#### C. Substance Abuse

Agility is committed to providing a safe work environment that is free from the effects of

alcohol and drug abuse. The possession, distribution, or use of any illegal drugs on Agility premises is strictly prohibited. The abuse of alcohol or other medications in the workplace is also a violation of this Code.

Similarly the use of controlled substances, the misuse, or abuse of alcohol or medication away from the Company's premises in any manner that may impair a personnel member's ability to perform assigned duties, threatens their safety or the safety of others, or otherwise adversely impacts the Company's business is not in the best interest of the Company and is a violation of this Code.

#### D. Protection for Complainants

It is against policy to retaliate against someone because he/she has opposed an unlawful discriminatory or harassing practice or because he/she has reported a violation, testified or participated in an investigation, proceeding or hearing involving a discrimination or harassment charge.

For example, if an applicant should mention that he/she is engaged in litigation against a previous employer arising out of alleged discrimination or harassment, you should neither discuss the matter further nor base your evaluation of the applicant on this knowledge.

***It is prohibited to retaliate against a personnel member who has complained about a discriminatory or harassing practice, or against another personnel member who has supported the complaint.***

## OUR COMMITMENT TO EMPLOYEES

### III. Health, Safety and Security of Employees

Agility is committed to providing its employees a safe, healthy, and productive workplace, which minimizes the risk of preventable accidents, injury and exposure to health risks. In cases in which Agility provides residential facilities, we ensure that these facilities also provide their inhabitants with a safe and healthy living arrangement, in accordance with applicable local laws and regulations. Safety is especially important in contingency and other high-risk locations, which are subject to significant corporate safety and security guidelines. Each work location has safety rules that must be followed. Agility companies comply with all health and safety laws, as well as our own internal health and safety policies that go beyond what the laws require.

Having safety rules is not enough, though. Our commitment to safety means that each employee needs to be alert to safety risks as he/she goes about his/her job. All Agility employees, and the employees of other companies working on Agility premises, must be familiar with the health and safety requirements associated with their jobs. A safe and secure work environment also means a workplace free from violence. Threats (whether implicit or explicit), intimidation and violence have no place at any Agility company and will not be tolerated. Weapons are not permitted in the workplace under any circumstance, without express permission from the Office of the General Counsel.

You should be familiar with and follow your company's policies regarding health, safety and security. Employees are urged to bring



any unsafe practices—including threats or intimidation—to the attention of the Compliance Officer or the Legal counsel or call the Agility Alert Line.

#### A. Forced Labor

Agility expressly prohibits and will not tolerate the use of involuntary, forced or bonded labor, including slavery, prison labor, or labor demanded of employees because of their debt.

#### **Agility personnel shall not:**

- Ask employees or prospective employees to pay for or give anything of value in return for employment.
- Require employees to leave their official identity papers, including passports, driving licenses or any other form of government issued ID without employees' voluntary and explicit consent, or as required by law
- Unreasonably restrict employee movements, or stop employees from leaving their place of work at the end of a shift.

Agility will not work with any agency or recruiting company which requires prospective employees to pay a fee in violation of any local or federal laws.

Employees are reminded that Agility prohibits any of its employees from receiving anything of



## OUR COMMITMENT TO SHAREHOLDERS

value from anyone engaged in the recruitment of employees. Any violation of this policy may be grounds for immediate termination.

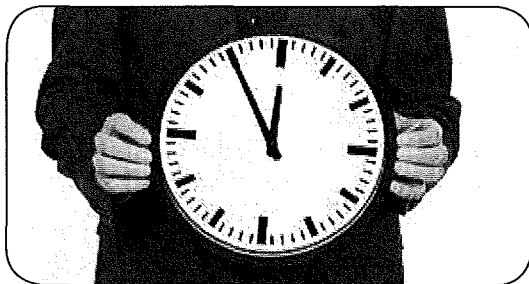
### B. Child Labor

Agility is committed to the adherence to the minimum age provisions in applicable laws and regulations where we conduct business. Agility prohibits the employment of any person under the age of 15 with the following two exceptions:

- a) In cases where the local minimum age law stipulates an age above 15 for work or mandatory schooling, the higher age will apply, and
- b) In cases where the local minimum law is set at 14 years of age, the age of 14 will apply, in accordance with developing-country exceptions under the United Nations' International Labor Organization (ILO) Convention 138.

### C. Work Hours and Wages

Agility's practice is to compensate employees competitively relative to the industry and local labor market. It is Agility's policy to operate in full compliance with applicable wage, work hours, overtime, and benefits laws of the jurisdictions in which we operate.



### IV. Employee Confidentialty

Agility believes in respecting the confidentiality of its employees' personal information. This

means that access to personal records should be limited to personnel who have appropriate authorization and a clear business need for that information. Employees who have access to personal information must treat it appropriately and confidentially.

Personal information is never provided to anyone outside of Agility without proper authorization from the Office of the General Counsel.

Agility's commitment to employee confidentiality is not a license to engage in inappropriate personal activities at work. Company computers, for example, are intended only for official use, not for outside business activities or personal use.

### V. Company Property, Records & Confidential Information

We will treat the investment of our shareholders as if it were our own, and we will avoid any impropriety or any appearance of impropriety in the performance of our duties.

#### A. Company Property

Agility owns various kinds of property in order to conduct its business. Theft, removal, or destruction of corporate property, equipment or materials is prohibited. Unauthorized personal use of business equipment is also prohibited. Agility, as governed by applicable law, has the right to access and review all communications, records and information created at work or with Company resources. This may include such things as Intranet or Internet activity, e-mails, voice mail and telephone activities.

## OUR COMMITMENT TO SHAREHOLDERS

Agility assets may be removed from Company premises only for purposes of conducting Agility business and only when properly authorized. For example, the removal of items such as tools, computer equipment or software, typewriters or other corporate assets, where no business purpose is intended, is prohibited.

Any questions relating to the use of Company property should be directed to your supervisor or to the Compliance Officer.

### B. Company Records

The integrity of Agility's record keeping and reporting systems must be respected at all times.

Agility records must accurately reflect and be a fair representation of the activity they record in accordance with the Company's policies and in a manner that will reflect the nature and purpose of the activity. No false or inaccurate entries shall be made in Agility records for any reason.

Records referred to herein include, without limitation, the following: timecards or other time-reporting documents, travel and business meeting expense reports, and accounting or other financial records.

**No "off-the-books" or improper records shall be established for any purpose.**

Personnel who are authorized to make expenditures on behalf of Agility must ensure that their records comply with the Company's accounting and purchasing policies and that all transactions are disclosed and recorded properly.



### C. Record Retention

Agility aims at preserving its work product and customer related material and may, from time to time, if and when the business requires, issue specific document retention policies.

Before corporate records are destroyed, responsible personnel must consult with their supervisors and must assure compliance with any relevant Company policy.

Documents relevant to any pending, threatened, or anticipated litigation, investigation or audit should not be destroyed for any reason until expressly authorized by the responsible representative of the Office of the General Counsel. The Office of the General Counsel may, from time to time, issue policies with regard to retention of specific documents which may be used in any of the aforementioned cases.

### D. Electronic Resources

#### i) Access to the Internet/Agility Intranet

Agility provides certain of its personnel access to the public Internet and Agility Intranet for the purpose of assisting and facilitating business information transfers and communications. Such access if authorized by Agility management will be provided for appropriate and legitimate business purposes

only. Use of the Internet and Company Intranet must conform to Agility's policies and practices as well as to this Code.

Agility considers the following, without any intended limitation, to constitute inappropriate use:

- 1) Unauthorized access or attempts to access another personnel member's computer system or e-mail;
- 2) Transmission of Agility confidential or proprietary business information to any unauthorized person or organization;
- 3) Clear text transmission of proprietary or confidential Agility business information to authorized persons or organizations outside Agility without data encryption;
- 4) Any use that violates Agility policies or practices or this Code including, but not limited to, the Company's specific policies, if any, regarding the use of electronic mail, internet access, solicitation, and racial, sexual or other harassment;
- 5) Any intentional use that knowingly restricts or inhibits any other user from using the Internet;
- 6) Knowingly posting or transmitting any illegal, unlawful, threatening, abusive, defamatory, sexually explicit or otherwise objectionable information or material of any kind;
- 7) Knowingly posting or transmitting any software containing a virus or other harmful component;
- 8) Knowingly downloading, uploading, posting, publishing, transmitting, reproducing or distributing without authorization any information, software or other material that is protected by copyright without first obtaining permission of the rights holder; and

- 9) Duplicating or copying any Company software in violation of Agility's licensing agreements or using any 'bootleg' or hacked program without proper licensing permission.



Agility, as governed by applicable law, has the right to access and review all communications, records and information created at work or with Company resources. This may include such things as Intranet or Internet activity, e-mails, voicemail and telephone activities.

#### ii) Electronic Mail

Electronic mail, or e-mail, is an increasingly important method of communication.

Electronic mail sent or received by Agility personnel is treated no differently than other business records or correspondence and are subject to inspection or disclosure without notice. E-mails, despite their medium, should be considered "documents" for all intents and purposes. They are, as a result, subject to document subpoenas in both civil litigation and criminal investigations

As a general rule, never transmit e-mail

## OUR COMMITMENT TO SHAREHOLDERS

messages that you do not want individuals other than your intended recipient to see. Agility acknowledges that emails may be used by employees for non-work purposes. Agility discourages such use and reminds employees that any occasional personal use of the email shall be in compliance with this Code and any relevant Agility policy. Agility shall be under no obligation to retain any personal and non-work related emails.

Communications that may constitute a violation of any Agility policy (for example, workplace harassment and discrimination) are an improper use of e-mail and are prohibited. Questions or concerns pertaining to electronic mail, including any suspected violations, should be directed to your supervisor, the Information Technology Department, or the Compliance Officer.

### iii) System Integrity

Personnel shall not share or divulge personal passwords used to access any Agility computer or database. In addition, personnel shall not use or distribute software that may damage or disrupt the work environment.

Personnel are expressly prohibited from accessing, without express authorization, any system or database containing confidential information, including employee or personnel records; information pertaining to stock ownership or participation in employee stock option or other incentive programs; and personal electronic mail, personal pager and voicemail messages of other personnel.

Unauthorized access to such information is a significant violation of the privacy rights

of fellow personnel, and has the potential of being extremely disruptive to Agility's mission. Approval for access to this information must come from the Chairman's office.

### E. Confidential Information

Consistent with each personnel member's existing and continuing obligation of confidentiality, personnel may not (either during or after employment) give or release, without proper authority, to anyone not employed by Agility, any confidential or proprietary information acquired during their employment with the Company.

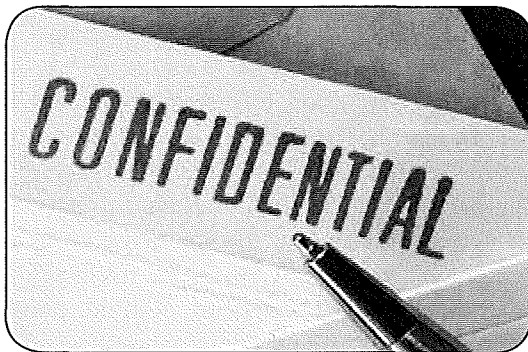
***Disclosure of confidential information can be harmful to Agility and can be the basis for legal action against the Company and/or the personnel member responsible for the disclosure.***

Confidential and proprietary information is one of the Company's most valuable assets and should be treated as such. The preservation and security of such information must comply with Company policies and related applicable laws and regulations.

Trade secret and confidential corporate information includes, without limitation:

- Personnel records;
- Internal telephone lists and directories;
- Passwords;
- Organizational charts;
- Engineering data;
- Financial data;
- Sales figures;
- Planned new services, processes, and/or products;
- Advertising or marketing programs or

- promotions;
- Lists of actual or potential customers and suppliers;
- Wage and salary or other personnel information;
- Capital investment programs;
- Projected earnings;
- Changes in management or policies;



#### F. Customer Information

Personnel are expressly prohibited from divulging any customer information to anyone outside of Agility without the prior

##### EXAMPLE 6

The representative of a significant customer has asked me if I could provide him with a list of our current customers. May I do so?

No. Confidential and proprietary information of this sort is an extremely valuable asset and must not be shared with others outside the Company. This includes customer lists, financial information, trade secrets and pricing information, but also less obvious information such as internal phone lists and directories, wage and salary information, and organizational charts. This incident should be reported to the Compliance Officer.

consent of the customer, unless necessary to comply with a subpoena, court order or other lawful process. For purposes of the Code, such information shall include, without limitation, customer names, account numbers, addresses, and billing information. Any request for such information should be forwarded immediately to your supervisor and to the Compliance Officer before any information is disclosed.

#### VI. Conflicts of Interest, Gifts, and Meals & Entertainment

##### A. Conflicts of Interest

The potential for a conflict of interest exists when an individual's position with the Company presents an opportunity for personal gain apart from the normal benefits of employment and compensation by Agility.

The potential for a conflict of interest also exists when a personnel member's personal interests are (or appear to be) inconsistent with those of the Company and create conflicting loyalties that could cause (or be seen as causing) a personnel member to put personal interests before the interests of the Company.

***Do not participate in or attempt to influence any action where your own interest may be in conflict, or appear to be in conflict, with the interests of Agility.***

##### i) Outside Affiliations

Outside affiliations provide a common avenue for conflict of interests. While it is not possible to describe every outside affiliation in which a conflict of interest may arise, some common scenarios include:

## OUR COMMITMENT TO SHAREHOLDERS

- 1) The personnel member has a substantial personal or family investment in an enterprise that has a business relationship with Agility as a supplier, vendor, jobber, agent, consultant, customer or competitor;
- 2) The personnel member holds a second job or other position that affects his or her on-the-job performance for Agility; or
- 3) The personnel member receives compensation as an employee or consultant of, or accepts loans, cash or materials from, a supplier, vendor, jobber, agent, consultant, customer or competitor of Agility.

Outside affiliations can create conflicts in various ways. For example, personnel with an interest in an outside company that does business with Agility may secure personal gain or favor by influencing dealings between Agility and that party. The personnel member's interest in the outside company may influence his or her judgment in making sound business decisions solely on behalf of Agility. The outside interest may also place the personnel member or Agility in an embarrassing or ethically questionable position in the eyes of the public and reflect adversely on the integrity of the personnel member or the Company.

### EXAMPLE 7

My husband and I have a small business that sells, installs, and maintains computer equipment. We are interested in becoming an Agility vendor. Can I work full-time for the Company and be a vendor?

No. Such a relationship would constitute an impermissible conflict of interest. If, however, the business was owned solely by your spouse, he could bid on a project, so long as he did not use the fact of your employment in any way to influence the selection process, and you do not participate at any level in reviewing or approving the work performed. Even that relationship, however, should be disclosed and discussed with your supervisor or the Compliance Officer.

### EXAMPLE 8

I am thinking of getting a second job. Does this create a conflict of interest?

A second job does not, in and of itself, violate the conflict of interest provisions of the Code. However, your primary obligation must remain with Agility. If a second job or other outside interest interferes with your ability to fully and satisfactorily meet the requirements of your position with Agility, a conflict may exist. Because conflicts of interest are so fact specific, personnel should discuss any concerns they have with their supervisor or the Compliance Officer.



The rules prohibiting conflicts of interest can also apply when a family member or friend of a personnel member has an interest in an outside entity affiliated with Agility. Such arrangements should be disclosed and discussed with your supervisor or the Compliance Officer.

ii) Insider Trading

Personnel shall not participate in any transaction (whether buying or selling) in Agility stock or in the shares of any other issuer while in possession of material nonpublic information that has become known to the personnel member in the course of conducting Agility business.

Similarly forbidden are purchases or sales of stock by another person, on the basis of such information, for the benefit of or at the request of the personnel member.

Agility personnel are also prohibited from advising others as to the desirability of buying or selling securities on the basis of material, non-public information.

Whether information is "material" depends upon whether it would be important to an investor in determining whether to trade in the security or would likely have an impact on the price of the security in the market.

While not an exhaustive list, the following types of information are generally considered "material": earnings projections, significant acquisitions and divestitures, major contracts or new business, financial results, and significant new processes or product discoveries. Other facts, depending on their nature, may also be material.

The restrictions of this section apply until the information has been publicly disclosed and adequately disseminated over a sufficient period of time so that the market has had a chance to react.

EXAMPLE 9

As part of my job, I recently received information about a potential new account that, if obtained, will significantly affect Company revenues. Can I use that information and purchase stock in the Company in my personal account?

No. You are strictly prohibited from trading in stock based upon material, non-public information. The information you received would be important to an investor in determining whether to trade in the security or would likely have an impact on the price of the security in the market.

EXAMPLE 10

I just learned through my job that a customer is on the verge of announcing an important new contract. May I purchase the customer's stock in my own account?

No. Restrictions on trading based upon inside information extend to the purchase or sale of any stock based upon material, non-public information. You should wait until the customer publicly announces the new contract before trading.

The Code does not prohibit minimal holdings of stock or other securities in publicly traded

## OUR COMMITMENT TO SHAREHOLDERS

companies that may compete or do business with Agility. A “minimal” investment for these purposes is one in which your holdings are less than 1% of the outstanding shares in the particular company. However, even in these “minimal investment” situations, any trading based on material non-public information is strictly prohibited.

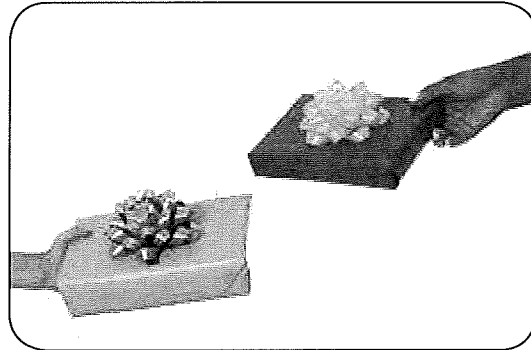
Any employee who may have what he or she believes to be inside information, and who wishes to discuss the nature of the information, should contact the Compliance Officer before trading (or tipping anyone else to trade) in a security of any company.

### B. Gifts, Meals and Entertainment

Depending upon the relationships involved, the exchange of gifts or provision of meals or entertainment can be seen as attempts to influence an employee into directing business to a particular supplier, vendor, jobber, agent, consultant, customer or competitor. Corporate hospitality is permissible to the extent described in this Code. However, remember that the more lavish the gift, meal or form of entertainment, the greater the inference is that that may constitute a bribe which is strictly prohibited by this Code.

In order to avoid both real and perceived conflicts of interest, the following standards shall apply to the receipt of gifts, meals and entertainment by Agility personnel.

***Even the innocent exchange of gifts or provision of meals or entertainment can be misinterpreted.***



#### i) Gifts

Personnel shall not encourage or solicit, either on their own behalf or on behalf of members of their family or friends, any gift, gratuity, or other personal benefit or favor of any kind from a current or anticipated supplier, vendor, jobber, agent, consultant, customer or competitor of Agility.

Gifts include anything of value, including money, merchandise and products, and also discounts on personal services and purchases.

Personnel may never accept gifts of money. Personnel may, however, accept unsolicited non-monetary gifts provided they are items of nominal value and do not go beyond common courtesy and accepted business practice. Any extravagant gift or any gift having more than a nominal value which exceeds an amount as is ordinary and customary in the industry in the country where you are operating, even if unsolicited, must be reported to the Legal Counsel or the Compliance Officer.

***Do not encourage or solicit any gift, gratuity, or other personal benefit or favor.***

#### EXAMPLE 11

Is it a violation of the Code to accept gifts of candies, fruits, etc. from outside organizations, including law firms, copy services, and other customers or vendors during holidays and on infrequent other occasions?

The Code plainly prohibits the solicitation of such gifts. However, as discussed above, the infrequent receipt of an unsolicited gift having a nominal value is generally allowed. Gifts of food or other perishables having more than a nominal value which exceeds an amount as is ordinary and customary in the industry in the country where you are operating should be shared with co-workers. Extravagant gifts should be reported to the Legal Counsel or the Compliance Officer, and politely returned to the sender.

No gift of any value should be accepted from a potential subcontractor on a government contract where the gift is given in exchange for receiving favorable treatment in connection with the award of a subcontract.

Contact the Legal Counsel or the Compliance Officer to determine what amounts are "ordinary and customary in the industry" in the country where you are operating.

When considering accepting an unsolicited gift, you should ask yourself the following questions:

- 1) Is the gift or promotional item intended to induce me to place my personal interest above that of my employer?
- 2) If I accept the gift, will it lead me to give

special treatment to a particular third party?

- 3) Have I received gifts in connection with this particular third party on a more than infrequent basis?

If the answer to any of these questions is 'yes,' you should first discuss whether to accept the gift with your supervisor or the Compliance Officer.

If you are unsure if a gift is appropriate, contact the Legal Counsel or the Compliance Officer.

***Personnel are strictly prohibited from accepting gifts of money and are discouraged from accepting any unsolicited gifts.***

#### ii) Meals and Entertainment

Personnel shall neither encourage nor solicit, either on their own behalf or on behalf of members of their family or friends, meals or entertainment from any individual or company doing business or seeking to do business with Agility. Examples of such meals and entertainment include tickets or passes to sporting events or other cultural events, trips, free accommodations, and complementary meals.

From time to time, however, personnel may accept unsolicited business entertainment, such as an occasional meal or social event, but only under the following conditions:

- 1) The entertainment occurs infrequently;
- 2) The entertainment arises in the ordinary course of business; and
- 3) The entertainment is reasonable (that is, involves amounts similar to that which the employee is accustomed to spending for personal entertainment) and takes place in a

## OUR COMMITMENT TO FAIR DEALING

setting that is appropriate and fitting in light of its business purpose.

As a general rule, entertainment should not exceed amounts as are ordinary and customary in the industry in the country where you are operating.



### EXAMPLE 12

I have been offered an opportunity by an Agility supplier to attend an all-expense paid seminar at a resort. May I accept?

Seminars of this sort have increasingly come under scrutiny. If the seminar is convened for a legitimate business purpose attendance may be permitted under the following conditions:

- i) Obtain seminar materials and the program agenda, and have them approved by your supervisor in advance.
- ii) You should pay for your own travel and accommodation to the event, and be reimbursed as per the Agility travel policy.
- iii) Seek the agreement of the Compliance Officer or Legal Counsel in advance.

## VII. Business with Third Parties and Antitrust Compliance

### A. Conducting Business with Third Parties

The following standards will serve as guidelines for Company personnel in conducting business with suppliers, vendors, jobbers, agents, consultants, and customers (Third Parties).

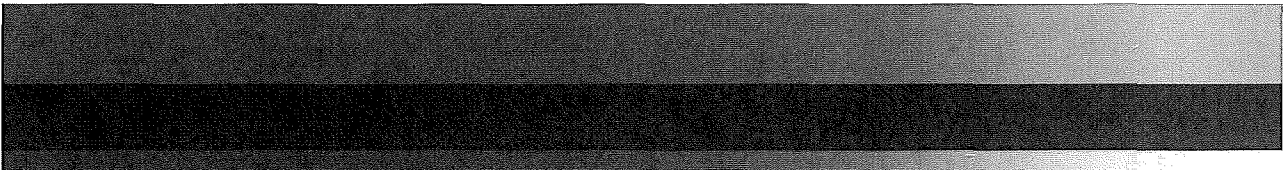
All business dealings must be fair and lawful. All purchases and sales of goods and services by Agility are to be made on the basis of quality, service, price, suitability, and similar relevant and lawful factors. The use of false or misleading statements in the conduct of business with Third Parties is strictly prohibited.

Personnel who regularly deal with Third Parties must be familiar with and fully comply with all laws governing such relations. Personnel engaged in government contract work must also be fully familiar with and abide by the specific rules and regulations governing relations with public agencies generally, and government procurement specifically.

Any questions concerning the applicability of these laws to particular situations should be addressed to the Legal Counsel.

Personnel must not consider reciprocity.

Reciprocity—favoring suppliers and vendors merely because they are also customers—is a harmful practice and a hindrance to ensuring the purchase of the best available materials or services at competitive prices. Personnel should never attempt to “tie” the purchase of goods or services to a purchase by Agility from the same customer.



Information about other companies received in the course of business must be treated carefully. When working with sensitive information about other companies, personnel should use that information only for the legitimate business purposes of Agility and make it available only to those Agility personnel having a legitimate need to know. In presenting such information, the identity of the organization or individuals should be disclosed only if necessary for business reasons. Adverse information relating to other companies that has no legitimate business purpose should not be retained.

Personnel should avoid offering, accepting or exchanging gifts, gratuities, or any other benefit or favor.

Personnel shall not offer gifts, gratuities, or any other benefit or favor to any Third Party in connection with the purchase or sale of goods or services.

Personnel may, however, offer **non-governmental entities** or their representatives non-monetary gifts of a nominal value—such as pads, pens, magnets, hats, T-shirts or related promotional items, provided such gifts have the Agility logo on them, and do not exceed US \$20 in value.

Personnel may also, in the ordinary course of business, occasionally provide reasonable business meals or entertainment to representatives or personnel of **non-governmental entities** with which Agility does business or seeks to do business. This may include, for example, an occasional meal, social event, or invitation to an Agility sponsored promotional event.

Meals and entertainment cannot be provided to the prime contractor to which the Company is a subcontractor on a government contract, where the meal or entertainment is provided in exchange for favorable treatment in the award of a subcontract. Additionally, meals and entertainment, in any amount, should not be provided if you are aware that acceptance of meals and/or entertainment would violate the prime contractor's ethics policies.

The place and type of entertainment offered or provided to organizations or their representatives doing business with the Company and the amount of money spent must be reasonable and appropriate and in all cases must be adequately documented on an appropriate Agility expense reimbursement form.

Meals or entertainment exceeding amounts as are ordinary and customary in the industry in the country where you are operating, received by any one person over the course of 12 months must receive advance written clearance from the Legal Counsel or the Compliance Officer.

Please contact the Legal Counsel or the Compliance Officer to determine what amounts are "ordinary and customary in the industry" in the country where you are operating.

When considering giving a gift, gratuity, or any other benefit or favor to any Third Party you should ask yourself the following questions:

- 1) Am I offering something of value in order to obtain special treatment for Agility?
- 2) Have I provided gifts or promotional items in connection with this particular customer on a more than infrequent basis?

## OUR COMMITMENT TO FAIR DEALING

If the answer to any of these questions is "yes," you should first discuss whether to offer the gift with the Legal Counsel or the Compliance Officer. These policies apply regardless of whether Company funds or personal funds are used to provide the gift, gratuity, benefit or favor.

### EXAMPLE 13

I have a time-share at an apartment in Miami. May I offer it to a customer for a weekend, even though I will not be present?

No. Since you will not be present, no opportunity to discuss business or otherwise further a business relationship with the customer exists. As a result, this form of entertainment would not appear to be business-related and would, instead, be considered an extravagant gift. Even if you were present, the value of the proposed entertainment may in any event be unreasonable, and the nature of the entertainment belies any apparent business purpose.

Under-the-table" payments are strictly prohibited.

Personnel and their families are strictly prohibited from offering, giving, encouraging, soliciting, accepting or receiving any form of "under-the-table" payment, "kickback," bribe, rebate or other improper payment in connection with any actual or potential sale or purchase of goods or services.

### B. Conducting Business with Governments

From time to time, Agility has business and regulatory contacts with different governmental agencies and representatives in many countries around the world.

Special considerations apply with respect to interactions with governmental agencies and representatives.

***As a general rule, gifts of any amount are inappropriate if given in exchange for influencing a government employee's performance of official actions.***

Personnel shall not offer, give, or transfer anything of value to, or accept anything of value from, any official, employee, or agent of any governmental entity with which the Company does business, is seeking to do business, or has a regulatory relationship. This prohibition applies both to transfers made directly, and to transfers done through intermediaries such as partners or family members.

For these purposes, items of value shall include both tangible and intangible benefits, including money, goods, services, entertainment, or promises of future beneficial treatment given or offered as an inducement to contract or to obtain a particular outcome.

***Do not discuss the potential for future employment at Agility with any official, employee, or agent of any government entity.***

Complex rules govern when a government employee may discuss potential future employment with a business that contracts with the government. An offer of future employment may also constitute a thing of value and violate applicable anti-bribery statutes. Personnel must obtain approval from the Compliance Officer prior to engaging in any such discussion.

***Properly maintain and present information to governmental entities.***

Special disclosure and record-keeping requirements imposed by governmental entities reinforce the importance of personnel maintaining accurate and proper records, including, but not limited to, cost and pricing data and time keeping and expense records. Improprieties, such as manipulation or falsification of records, are strictly prohibited.

**C. Antitrust / Competition Compliance**

Agility is subject to the antitrust laws of the various jurisdictions in which it conducts business. Antitrust laws generally prohibit agreements, understandings and actions that may restrain trade or reduce competition.

Personnel should be familiar with the various forms of anti-competitive practices and avoid any such practices. Due to the complexities of antitrust laws, personnel should familiarize themselves with **Agility's Competition Compliance Policy** and consult with the Legal Counsel or Compliance Officer with any questions about the possible application of antitrust laws to their activities.

**i) Agreements Among Competitors**

Absent express approval of the Legal Counsel, personnel shall not enter (or attempt to enter) into any agreement, express or implied, with a competitor concerning pricing, terms of sale, allocations of customers or territories, customer/supplier boycotts, or other similar agreements. Teaming and joint venturing should only occur where neither party individually has all the skills, background, requirements or financial capacity necessary to effectively compete, but

together they do. To make sure certain teaming arrangements do not violate antitrust laws, any teaming arrangement, including establishment of joint ventures, new subsidiaries, limited liability companies or prime/subcontractor teams, must be reviewed by the Office of the General Counsel.

**EXAMPLE 14**

A competitor has been actively soliciting one of my best accounts. Can I discuss with him the possibility of a mutual agreement not to call on one another's key accounts?

Absolutely not. Understandings or agreements between competitors concerning the allocation of customers are routinely determined to be illegal in various countries and are prohibited.

The following standards will serve as guidelines in interactions between personnel and competitors:

- 1) Personnel should always exercise independent judgment and, to the extent possible, avoid even the appearance of collusion with a competitor. All pricing decisions shall be made independently of competitors, relying on costs, general market conditions and competitive prices;
- 2) Personnel shall not enter into discussion with any competitor on the following subjects: prices or discounts, output levels, warranties; terms or conditions of sale or credit; costs, cost coverage, margins or profits; bids or intentions to bid; sales territories or customers; or other matters on which agreement would be inappropriate.

## OUR COMMITMENT TO FAIR DEALING

3) During trade association meetings, personnel should confine all discussions to the subjects for which the meeting was convened or to explicit agenda items. Personnel should contact the Legal Counsel or the Compliance Officer in advance with any questions about likely sensitive topics of discussion and topics that should be avoided and insist that the meeting be attended by counsel, if necessary;

4) Personnel shall immediately exit meetings (including social gatherings) where forbidden subjects are discussed with competitors. Personnel should make a point of their departure so others will remember, and promptly report the incident to the Compliance Officer or the Legal Counsel;

5) Personnel shall not provide information about Agility pricing policy, terms and conditions, costs, marketing plans, market surveys and studies, or any other proprietary or confidential information to a competitor. Personnel should also not obtain similar information directly from a competitor. It is generally appropriate to obtain such information from public sources and customers. Personnel should document the source from which they did obtain such information; and

6) Personnel shall not attempt to obtain confidential information or trade secrets from a competitor or competitor's customer through practices such as deceit, industrial espionage, trespassing, wiretapping, stealing, hiring a competitor's personnel, or any improper solicitation of confidential data.

### EXAMPLE 15

We have just hired a former employee of a competitor, who has offered to show me a price book that he took from his former job. What should I do?

Unless the pricing information has been widely distributed to customers or is otherwise publicly available, it likely constitutes proprietary information and you should not accept it. The new employee should be advised to destroy the material or return it to his former employer, and the incident should be reported to the Compliance Officer or Legal Counsel.

### EXAMPLE 16

I would like to learn the prices of a competitor's products. May I contact the competitor posing as a prospective customer?

No. Agility personnel are strictly prohibited from seeking to obtain competitive information through improper means, including deceit. Masquerading as a customer plainly falls within this proscription. Pricing information may, however, be obtained through legitimate channels, including customers (unless the information was provided to them under a confidentiality agreement) or through the services of various reputable firms that conduct market analyses. From whatever source you obtain the information, you should make certain to document it in case questions arise later.



## OUR COMMITMENT TO WORKING WITH OUR LOCAL COMMUNITIES

### ii) Monopolization

While Agility does not have, nor does it strive to have, a monopoly in any area of business, it may nevertheless be accused of illegal monopolization.

Personnel must not make oral or written statements that exaggerate the Company's position, that might suggest a predatory intent, or that might be taken as an expression of intent to monopolize, to capture a dominant share of the market, or to drive competitors out of business.

### ***Do not make any representations that suggest any anti-competitive intent.***

Personnel must not make oral or written statements that suggest the Company can project sales or profits without reference to marketplace conditions. Personnel also must not express sales objectives in negative terms, such as to "crush" a competitor's business. Such rhetoric must always be avoided.

### **Summary**

You must be particularly careful about dealing with competitors, and must not discuss with any competitor:

- Prices;
- Price changes;
- Discounts;
- Costs;
- Warranties;
- Confidential information, such as details of sales, revenue, contract terms, business opportunities;
- Terms of sale; or
- Marketing initiatives.

The Code is not intended to summarize applicable antitrust laws, which are complex and subtle in their application to any particular situation. Any employee who has questions about the application of antitrust laws to any situation should refer to Agility's **Competition Compliance Policy** and ask before acting. Information regarding apparent or suspected violations of these laws should be reported immediately to the Compliance Officer or Legal Counsel.

## **VIII. Environmental, Health & Safety Compliance**

### Community Service

Agility is committed to creating opportunities for employees to give back to the community in ways that go above and beyond commercial obligations alone. The company offers employees a number of avenues to participate in voluntary community initiatives on the country, regional, and corporate level. We believe that getting involved helps grow our company, our local communities, and our future.

Agility's approach is grounded in building long-term relationships with reputable and effective non-profit partner organizations. We strongly support the principles of humanity, neutrality, and impartiality in our response to service, and do not work with organizations that discriminate on the basis of race, religion, or politics.

### Environmental, Health & Safety Compliance

Agility is committed to the preservation and protection of our natural environment, and promoting and maintaining a safe workplace.

## OUR COMMITMENT TO THE GLOBAL WORKPLACE

In this regard, all aspects of its operations shall be conducted in strict conformance with all applicable laws and regulations, as well as with all Agility corporate policies and best practices pertaining to workplace safety and protection of the environment.

Agility's commitment also includes implementing controls to prevent pollution and harmful emissions, reducing over consumption of physical resources and energy, and minimizing waste.

The existence of any suspected discharge or any other unsafe workplace condition should immediately be reported to your supervisor or to the Compliance Officer.

### IX. Political Activities

Personnel are encouraged to participate in civic and political activities. This is a way in which all of us can practice good citizenship and make meaningful contributions to our communities.

However, any political activities should be on the employee's own time and at his/her own expense and should not otherwise interfere with the conduct of Agility business.

Agility personnel may not make any political contribution on behalf of the Company or using corporate funds. A personnel member may make personal political contributions to a candidate or political action committee only with no reimbursable personal funds.

Personnel are prohibited from using any Agility property or facility, or the working time of any Agility personnel member, for any political activity.

### X. International Business

***Agility is proud to be a leader in the global workplace on a number of issues. It is a privilege to be able to offer our products and services in numerous countries around the world, and to have the unique opportunity to help the citizens of those countries raise their standard of living and improve their lives. With that privilege to conduct business throughout the world comes an obligation to respect the laws that govern global business and the government officials worldwide who enforce or enact those laws.***

A substantial portion of the business of Agility has an international dimension. Specific laws and regulations apply to the conduct of international business. Personnel involved in foreign business transactions must be fully familiar with and strictly follow such provisions. While by no means an exhaustive survey, Agility personnel involved in international business matters must, at a minimum, be aware of applicable anti-boycott provisions, export regulations, trade embargoes, anticorruption laws, and general criminal laws in force at the time. This is a particularly complex area. Personnel should seek expert assistance early, and often, by contacting the Legal Counsel or Compliance Officer for details and up-to-date information and guidance.

#### A. Anti-Corruption Laws

Being a global company carries global responsibilities, and increasingly, employees need to be aware of international and foreign anti-corruption laws and regulations that may

have an impact on their area of operations.

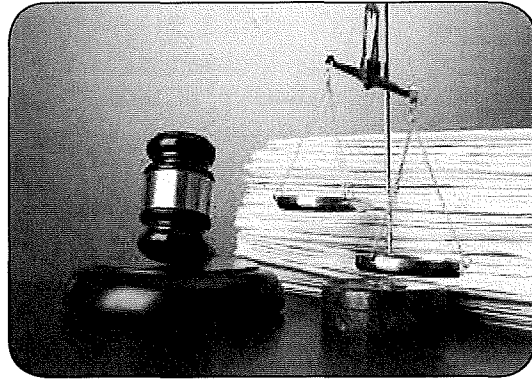
Personnel are strictly prohibited from offering, authorizing, giving, promising or receiving anything of value to/from a governmental official or a private entity that could be perceived as an inducement or bribe to help Agility in its business. A bribe can be any form of benefit including: money, business, hospitality, entertainment, employment, recommendation or gifts; it can be given directly or indirectly, and is a benefit intended to improperly influence a decision maker.

In addition to bribes, Agility does not tolerate facilitation payments (also called "grease payments") which are small payments made to low level governmental employees to secure or expedite the performance of a routine action where the payer of the facilitation payment already has the right to the relevant action.

Agility acknowledges that these types of payments are treated differently from country to country, and could be either legal or illegal depending on the jurisdiction; however, Agility is committed to fight for the global eradication of facilitation payments which is a goal it shares with other multi-national companies, governments and international organizations.

Personnel must familiarize themselves with the applicable anti-corruption legislation for their area of operations. Because of the complex and dynamic nature of international business, personnel should direct questions in this area to the Legal Counsel or Compliance Officer.

Two examples of anti-corruption laws are the U.S. Foreign Corrupt Practices Act (the "FCPA")



and the UK Bribery Act (the "UKBA"), both of which have an extraterritorial reach. Personnel must familiarize themselves with the FCPA, the UKBA and all other applicable anticorruption laws. In this regard, please contact your Legal Counsel or Compliance Officer.

#### The FCPA

The FCPA prohibits companies and their personnel from offering, paying or authorizing payment of any money, or other thing of value, directly or indirectly, to a foreign official.

The FCPA is a federal criminal statute that contains two sets of provisions, provisions prohibiting bribery and provisions requiring companies to maintain adequate internal accounting controls to monitor potential corrupt practices.

The anti-bribery provisions of the FCPA prohibit companies and their personnel from offering, promising, paying or authorizing payment of any money, or other thing of value, directly or indirectly, to a foreign official in order to influence any act within his/her official capacity, or to induce him/her to assist in obtaining or retaining business for the Company or any other entity. Under the FCPA, a foreign official

## OUR COMMITMENT TO THE GLOBAL WORKPLACE

is any person acting in an official capacity on behalf of a foreign government, agency, department, instrumentality, or international organization. Also included under the term "foreign official" are foreign political parties and officials of any such parties, or any candidate for foreign political office or his/her representative. The definition is intentionally broad and includes various individuals who may be acting "on behalf of" the foreign government, including consultants and engineers retained solely in connection with a specific project.

Individuals who willfully violate the anti-bribery provisions of the FCPA may be fined up to \$100,000 per violation or twice the amount of the gross pecuniary gain resulting from the violation, or be imprisoned for up to five years, or both. Companies may be fined up to \$2 million per violation or twice their pecuniary gain for criminal violations. Civil penalties up to \$10,000 may also be imposed.

Besides violating the FCPA, such transactions may also result in the violation of local criminal laws, such as local anti-bribery laws.

### EXAMPLE 17

Can we treat a Government official to a golf game after a scheduled meeting?

No, this activity is not reasonably associated with a legitimate business purpose and likely would be viewed as extravagant and thus unlawful under the FCPA and many anticorruption laws in jurisdictions where Agility does business.

***The FCPA is one example of anti-bribery legislation. It prohibits companies and their personnel from offering, paying or authorizing payment of any money, or other thing of value, directly or indirectly, to a foreign official.***

The FCPA creates an exception for expenditures incurred by or on behalf of a foreign official that are related to the promotion or demonstration of products or services. For example, reimbursement of expenses, including meals, lodging and business entertainment, incurred in bringing a foreign official to the United States for a tour of Agility facilities, for meetings, or for other legitimate business reasons may be appropriate under the FCPA. In all such cases, you must receive prior written approval from the Legal Counsel or Compliance Officer before extending any offers or invitations.

Under the accounting standards provision of the FCPA, any payment, if required to be made, must be properly recorded in the accounts. Obviously, the recording of such payments in any way that would conceal their true nature would be a violation of the FCPA accounting standards, and this Code. No fictitious invoices, documents, etc. shall be involved in any transaction. No accounting record or document shall be falsified in any manner that may obscure or disguise the true nature of the transaction.

Individuals who willfully violate the accounting provisions of the FCPA may be fined up to \$5 million or twice the amount of pecuniary gain resulting from the violation, or imprisoned for up to 20 years, or both. A company may be fined up to \$25 million or twice the amount of pecuniary

gain. Civil penalties may also be imposed, up to \$500,000 per violation for corporations and \$100,000 per violation for individuals.

#### The UKBA

The UKBA is another example of anti-bribery legislation. Unlike the FCPA, the UKBA is not limited to bribery in respect of government officials; the UKBA extends to private entities and individuals.

The UKBA makes it a criminal offence to directly (or indirectly through third parties) offer, promise, or give a bribe to any person in order to induce or reward any person to improperly perform a commercial function, or where the offeror, promisor or giver knows or believes that acceptance of the bribe would constitute improper performance of a commercial function. Requesting, agreeing to receive or accepting a bribe from another person is also considered as a criminal offense.

***Unlike the FCPA, the UKBA is not limited to bribery in respect of government officials; it extends to private entities and individuals.***

The UKBA also prohibits directly or indirectly offering, promising or giving a bribe to a foreign public official in order to influence the public official in his official capacity and to obtain or retain business or an advantage in the conduct of business. Under the UKBA, a "public official" includes anyone who holds a legislative, administrative, or judicial position, whether elected or appointed, an official or agent of a public international organisation, and anyone who exercises a public function for a country or its public agency. Note, however,

that bribery is prohibited in relation to all persons, whether public or not.

The UKBA also provides for a corporate offense consisting of failure to prevent bribery. Under this offence, **UK entities (as defined in the UKBA) could be held liable for failing to prevent bribery by their foreign Associated Persons.** An 'Associated Person' is broadly defined as a person that could be deemed to be providing services for, or on behalf of, a UK entity (regardless of its capacity in which it performs the services). **Therefore, any non-UK Agility affiliates, employees, subcontractors, agents or persons wherever located that could be deemed to be providing services for or on behalf of a UK entity, should comply with the provisions of the UKBA during the performance of such services.**

Furthermore, under the UKBA, there is no exception for facilitation payments made to public officials to expedite or secure the performance of a routine governmental action, or for hospitality and bona fide expenditures made to or on behalf of government officials for travel and lodging expenses.

#### Summary

Personnel should question and further investigate any "sensitive transactions," those transactions that could appear to be illegal, unethical, immoral or reflect adversely on the integrity of management. These transactions may violate various laws and subject the Company and its officers and directors, and any personnel involved, to fines, imprisonment and civil litigation. As a general rule of thumb, if it doesn't feel right, it probably isn't.

## OUR COMMITMENT TO THE GLOBAL WORKPLACE

In such cases, conduct further inquiry about the transaction, and consult the Legal Counsel or Compliance Officer to seek guidance before such a transaction is executed.

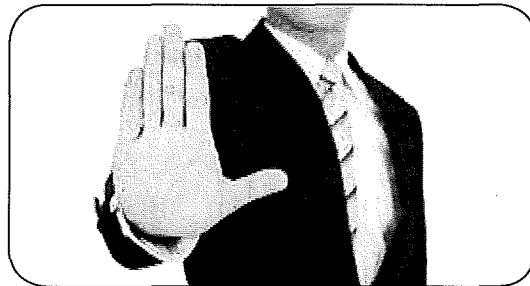
If, during the course of any engagement with an agent, representative, consultant, contractor or business partner, or any other third-party authorised to work on behalf of Agility, you have reason to believe or to know that an Agility agent, representative, consultant, contractor or business partner has violated the provisions of this Code addressing bribery, or that an Agility employee has either authorised or permitted such a violation, you must immediately report such incident to the Legal Counsel or Compliance Officer.

### ***When in doubt seek advice.***

#### **B. Anti-Boycott Regulations**

The anti-boycott regulations of the U.S. Department of Commerce and the Internal Revenue Service prohibit U.S. companies and foreign business concerns controlled by U.S. companies from engaging in unsanctioned boycotts with respect to products or services. Although the antiboycott regulations are complex and extremely broad in terms of the activities proscribed, they generally prohibit businesses and individuals from taking any action in support of a boycott of any foreign country where the boycott is not recognized by the United States.

Prohibited conduct includes requests by a customer to refrain from doing business with the government, businesses or citizens of a particular country; requests to provide certain information relating to the Company's business



in such country; or requests to take any other action in support of a boycott not recognized by the United States. The U.S. anti-boycott regulations impose sanctions, including civil and criminal penalties and loss of tax benefits, for certain actions considered supportive of such boycotts.

#### **C. Export Regulations and Trade Embargoes**

U.S. export regulations prevent U.S. exports of certain goods to countries without a license, or exporting goods to sanctioned countries, entities or individuals. Alongside trade embargoes, they are used to protect the United States economy and enhance its security, by prohibiting the import or export of certain goods such as arms, munitions or goods made from endangered species.

Agility personnel must observe all applicable export and embargo regulations. This area is exceedingly complex. Personnel facing these issues should be in regular contact with their Legal Counsel or Compliance Officer, to ensure they have up-to-date information. In addition, personnel must be on alert for and promptly report any customer that appears to be diverting goods during shipment in order to disguise the place of origin of the goods, misreporting the true nature of goods being shipped, or in any way attempting to evade import/export regulations or trade embargo rules.

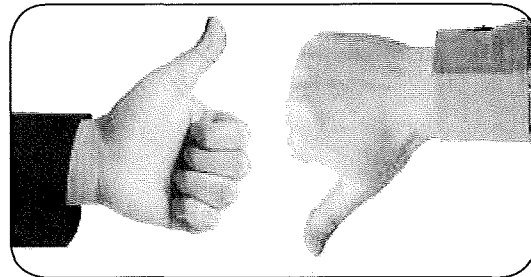
#### D. Economic Sanctions

A global company such as Agility faces complex compliance obligations under multi-lateral and unilateral economic sanctions regimes. Thus, Agility personnel are required to regularly consult Agility's **"Guide to US, UN and EU Sanctions"** which is a tool for them to screen their transactions, business opportunities and business partners against US sanctions, United Nations sanctions and European Union sanctions. In addition, Agility personnel must familiarize themselves with the applicable economic sanctions adopted by various local governments in their area of operations.

When in doubt, personnel should contact their Legal Counsel or Compliance Officer for advice especially whenever any Agility employee encounters a situation where business may be transacted with a person or entity located in or having the nationality of Cuba, Iran, North Korea, Syria, or Sudan.

The U.S. Government maintains economic sanctions against several countries and certain organizations and individuals. The Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC") administers the main U.S. economic sanctions programs against targeted countries, organizations, and individuals. Currently, the most extensive OFAC sanctions programs target Cuba, Iran, North Korea, Syria and Sudan.

In general, U.S. economic sanctions apply to "U.S. persons," a term that includes U.S. citizens and permanent residents, wherever physically located; companies organized under the laws of the United States or any U.S. state and their



overseas branch offices; and persons physically located within the United States, regardless of citizenship. Additionally, under the Cuba and Iran sanctions, non-U.S. entities owned or controlled by U.S. companies or U.S. individuals are also subject to the full extent of the Cuba/Iran sanctions.

In addition, OFAC generally prohibits U.S. persons from "approving or facilitating" dealings with sanctioned countries by non-U.S. persons. This term is vague. It is clear, however, that a U.S. person would be considered to "facilitate" dealings with a sanctioned country by changing corporate policies to allow a non-U.S. affiliate to perform a prohibited transaction, or by referring prohibited business to a non-U.S. affiliate. U.S. persons cannot take any actions that support transactions with a sanctioned country.

The penalties for violating OFAC sanctions vary, but can be severe. Criminal penalties can include imprisonment and fines of up to \$1,000,000 per violation. Civil penalties are smaller, but are applied much more often. Over a recent two-year period, there were approximately 45 enforcement actions against both companies and individuals, and the monetary fines in these cases ranged from \$5,000 to \$176 million.

It is the policy of Agility that all Agility subsidiaries, affiliates, and branches located in the United

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States, all non-U.S. branch locations of Agility entities organized in the U.S., as well as all U.S. citizen and permanent resident employees and directors wherever located, must comply fully with U.S. economic sanctions. All Agility employees should familiarize themselves and comply with these sanctions, where and when applicable, as well as all local sanctions enforceable in the country where they are operating.

### EXAMPLE 18

I am an Agility employee in the United States and have just learned of an opportunity for the Company to bid on a high-value tender being issued by the United Nations for North Sudan. Since North Sudan is a sanctioned country can I participate in preparing a bid in response to this tender or should I simply refer the matter to my non-US counterparts in Kuwait?

In the first instance, consult Agility's Guide to US, UN and EU Sanctions to understand better the extend of the US Sanctions against North Sudan and then refer this matter immediately to the Legal Counsel or Compliance Officer who will review whether Agility has the ability to pursue this matter. Please remember that OFAC is not obligated to grant licenses in respect of United Nations tenders for work, and there may well be such tenders which OFAC declines to license. Additionally, note that referring a business opportunity with an embargoed destination to another non-US Agility entity could in and of itself constitute prohibited facilitation of sanctionable activity. As such, you must refrain from referring any such business activity without consulting the Legal Counsel or Compliance Officer.

In summary, Agility is not itself a U.S. person, and U.S. economic sanctions thus do not apply directly to Agility. However, because Agility owns and controls companies that are U.S. persons and employs many individuals who are U.S. persons, it is generally the policy of Agility to comply with the terms of U.S. economic sanctions where applicable.

In addition to US economic sanctions, other economic sanctions programs have been maintained by various governments and international organizations (e.g., UN and EU). Agility employees should familiarize themselves with these as well as all local sanctions enforceable in the country where they are operating.

**For more details on these sanctions please refer to Agility's Guide to US, UN and EU Sanctions.**

### E. General Criminal Laws


Conduct of personnel that violates the criminal laws of any nation will not be tolerated by Agility and personnel who engage in such conduct may face termination and referral for prosecution.

Personnel may be subject to prosecution for such conduct in the nation in which the conduct occurs or in any foreign nation with jurisdiction over the personnel member.

### XI. Business with the United States Government

The unique nature of doing business with the U.S. Government implicates particular statutes and regulations that do not normally apply to commercial transactions. Business conduct that is acceptable in the private sector may violate U.S. Government procurement laws or regulations resulting in harsh consequences.





You may directly or indirectly perform services or work related to one or more government contracts. It is your responsibility to know the terms of the government contract(s) you are working on and all of the policies and procedures related to those contracts.

You may also be required to sign certifications, either internal or to the government, regarding the accuracy of information or Agility's performance under the contracts.

If you have any questions or doubts regarding any aspect of Agility's performance under any government contract, it is your duty to come forward immediately.

The following is a brief summary of the rules and regulations that apply to our work on U.S. Government contracts. These guidelines apply equally to direct contracts with the government as well as subcontracts in which our products and services are being procured by others under contract with the United States.

Violations of these guidelines can jeopardize Agility's ability to participate in Government programs, result in the loss of a particular government contract, subject Agility's personnel to disciplinary action, up to and including termination, and may also result in prosecution by the Government. Conduct business with the highest degree of integrity.

Conduct business with the highest degree of integrity

All personnel must comply with the letter and spirit of U.S. Government contracting laws and regulations. When the U.S. Government is our client, we have a special obligation not only to

the U.S. Government and the beneficiaries of U.S. Governmental programs, but also to the U.S. public at large and our stockholders to ensure that we perform with the highest degree of integrity. Towards these ends, Agility's personnel must ensure that all goods and services meet contract requirements for delivery, performance, design, manufacture, testing and any other relevant specifications or requirements.

Personnel also should not hire or do business with individuals or entities that have been debarred or otherwise excluded from participation in U.S. federal procurement programs. The U.S. Government maintains a centralized database of individuals and businesses that are excluded from receiving or participating in federal contracts at <http://www.sam.gov>.

Agility is also sometimes provided property or equipment that is owned by the U.S. Government. This property or equipment must be properly accounted for and used only for authorized purposes.

***Do not communicate with U.S. government officials "off-line" during the evaluation of a Agility proposal.***

The Procurement Integrity Act generally prohibits contractors from communicating with U.S. government officials evaluating their proposal except through well-defined official channels. Agility personnel should refrain from any such "off-line" communication. If you are unsure whether a potential communication is appropriate, you should contact your supervisor or the Compliance Officer before communicating with the U.S. government official.

***Account accurately and honestly for all costs, pricing, expenses and claims for payment.***

Personnel must fully disclose complete and accurate cost and pricing data that is current up to the date of agreement on price. Agility is frequently required to submit cost or pricing data to the U.S. Government with certifications that it is current, accurate and complete. Full disclosure of all relevant cost and pricing data, as defined by Federal Acquisition Regulations, is required when mandated by the U.S. Government. Note that the definition of data that must be disclosed is very broad and includes all facts that a prudent buyer and seller would reasonably expect to affect price.

When a U.S. Government contract allows for reimbursement of specific costs, only those costs that are clearly allowable under U.S. Government regulations and reasonable in amount should be submitted to the U.S. Government for reimbursement. Alcoholic beverages, promotional items, donations and entertainment expenses are expressly unallowable.

All labor and material costs must be accurate and charged to the appropriate account. Improprieties, such as charging labor or material costs improperly to the wrong account, charging direct contract effort expenses to an overhead or indirect account, or falsification of time cards or other records will not be tolerated.

All other claims for payment must be truthful.

For example, Agility is often required to certify compliance with quality control specifications and testing requirements for our products. Improprieties, such as unauthorized substitution of materials, substandard or nonconforming parts, altering, falsifying or distorting inspection or test documentation, improperly or erroneously recording inspection or test results, or falsely certifying or stating that required inspections or tests were performed will not be tolerated.

***Do not offer, make or accept any gift, gratuity, offer for employment, or other personal benefit or favor in connection with a U.S. government contract.***

Offering or giving money, fees, commissions, credit, gifts, gratuities, or any other thing of value or compensation, directly or indirectly, to a U.S. Government employee for the purpose of improperly obtaining favorable treatment is a crime and is prohibited.

Agility's policy prohibits personnel offering or giving U.S. Government employees involved in the procurement process anything except: (a) beverages at a business meeting, or (b) light snacks for a business meeting where government employees in travel status are in attendance.

Personnel also should not offer or promise future employment to U.S. Government employees involved in the procurement process. There are many "revolving door" laws that apply to U.S. Government employees and restrict their employment outside the government. In some cases, even discussions of possible employment are

prohibited.

Accordingly, clearance must be obtained from the Compliance Officer before even mentioning proposed employment to a current U.S. Government official and before hiring or retaining a current or former U.S. Government official.

These restrictions also apply to interactions with fellow U.S. Government contractors and subcontractors who may be seeking to work with Agility. Other than the customary business courtesies that are reasonable in frequency and value, discussed above, soliciting or accepting any money, fee, commission, credit, gift, gratuity, thing of value or compensation from a higher - tier government contractor, subcontractor, vendor or supplier for the purpose of obtaining or acknowledging favorable treatment under a U.S. Government contract or subcontract is a crime and prohibited by this policy.

***Do not solicit, receive or use sensitive or classified information about competitors or the U.S. government in connection with a U.S. government contract.***

Agility personnel must not solicit or obtain a competitor's non-public bid or proposal information regarding a U.S. Government procurement for which Agility intends to bid. Such bid or proposal information includes cost and price data and proprietary information about techniques or indirect costs. Personnel also must not solicit or obtain a U.S. Governmental agency's source information prior to contract award. Source selection information includes government-sensitive information and


documents such as source selection plans, technical evaluation plans, government evaluation of proposals and competitive range determinations.

The solicitation, receipt or use of U.S. Government information classified for national security is also strictly prohibited. Agility is not a cleared contractor for handling classified information. Unauthorized possession, use, disclosure, or transmission of classified information may be punishable by fines or imprisonment.

If you know of or suspect any actual or potential security violations or believe that proprietary or source selection information has been revealed to you, you must report it immediately to your supervisor or the Compliance Officer.

The laws which govern our contracts with the U.S. Government give wide discretion to governmental investigators to search out wrongdoing. Many governmental agencies employ their own investigators (e.g., inspectors general, special agents) to supplement work usually performed by local police, the Department of Justice or state district attorney offices.

Agility's policy is to cooperate fully with all legitimate investigations; however, the rules governing the conduct of investigations are complex and therefore require the involvement of the Office of the General Counsel. Any employee who becomes aware of an investigation relating to the Company, its employees, contracts or subcontracts should immediately contact the Office of the General Counsel with this



information.

During the course of any investigation, employees have certain rights as individuals. Agility is not in a position to protect these rights for employees, but can assist in locating a personal attorney to counsel employees who are targets of an investigation. Remember: it is perfectly permissible to delay answering any investigator's questions while seeking legal advice regarding your individual rights. The Office of the General Counsel can provide advice regarding the Company's rights. Employees approached either at home or on the job by a government investigator regarding matters that involve work for the Company should follow these guidelines:

(i) ask to see identification, and make a note of the individual investigator's name, agency and phone number, (ii) determine the scope of the inquiry, (iii) politely explain the Company's policy—that it is Agility's policy to cooperate, but that it will be necessary to consult with counsel before answering any questions or turning over papers, (iv) immediately contact the Office of the General Counsel, and (v) if the investigator serves a subpoena or other document requesting documents, immediately call the Office of the General Counsel (or contact counsel at home) for advice while the investigator waits.

Always remember that you are under no obligation to answer any questions or produce any documents without legal advice. Once you report contact by an investigator, the Company will promptly respond to the inquiring agency.

## AGILITY CODE OF BUSINESS ETHICS AND CONDUCT ACKNOWLEDGEMENT FORM

The Agility Code of Business Ethics and Conduct (the Code) outlines the most fundamental obligations of Agility personnel.

In the unlikely event that the Code conflicts with any other Agility practice, work rule or policy, the Code takes precedence except when stipulated otherwise in a specific Agility policy. The Code does not constitute an employment contract. Agility reserves all rights to change or modify this Code at any time to the extent permitted by law.

I understand and agree to adhere to the conditions contained within this Code and to maintain its content in full confidentiality.

I hereby acknowledge the receipt of the Agility Code of Business Ethics and Conduct and agree to return it back to the Human Resources Department upon departure (whether by resignation or termination) from the Company.

\_\_\_\_\_  
Employee Name (Please Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Signature

Return this form to the Human Resources Department







Corporate Office  
Kuwait  
T: +965 1 809 222  
[info@agility.com](mailto:info@agility.com)